

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA,

v.

DAVID HOWARD.

Crim. Action No. CCB-11-0494

Civil Action No. CCB-16-2315

MEMORANDUM & ORDER

On September 6, 2012, David Howard pled guilty to conspiracy to commit Hobbs Act robbery (Count One) in violation of 18 U.S.C. § 1951; use of a firearm during and in relation to a crime of violence (Count Ten) in violation of 18 U.S.C. § 924(c); and use of a firearm during and in relation to a crime of violence (Count Thirteen) also in violation of 18 U.S.C. § 924(c). Re-Arraignment, ECF 96; Plea Agreement, ECF 97.

Count Ten specifically identified the Hobbs Act robbery charged in Count Nine as well as the conspiracy charged in Count One as the underlying crime of violence. Count Thirteen specifically identified the Hobbs Act robbery charged in Count Twelve as well as the conspiracy charged in Count One as the underlying crime of violence. Superseding Indictment at 16, 19, ECF 20.

Howard was sentenced on February 1, 2013, to a total term of incarceration of 384 months and one day. J., ECF 181.¹ Multiple motions have been filed and resolved since then. The only issue remaining is part of a second or successive Section 2255 petition Howard was given leave to file in 2016. *See* Order, ECF 377; Mot. to Vacate, ECF 378. Howard argued that because Hobbs Act conspiracy was no longer a crime of violence, his convictions on the two Section 924(c) counts

¹ A motion for compassionate release was partially granted in November 2021, reducing Howard's sentence to a total of 216 months. *See* Mem., ECF 486; Order, ECF 487; Am. J., ECF 488.

were no longer valid. Mot. to Vacate at 4-5. But the Fourth Circuit has decided that where the Section 924(c) count is supported by a valid predicate as well as an invalid predicate the conviction remains sound. *United States v. Crawley*, 2 F.4th 257, 262-64 (4th Cir. 2021); *see United States v. Ogun*, 2022 WL 843899, at *2 (4th Cir. Mar. 22, 2022) (unpublished per curiam opinion). Counts Ten and Thirteen each identified an underlying act of Hobbs Act robbery. Superseding Indictment.

Accordingly, it is hereby **ORDERED** that:

1. The motion to vacate under 28 U.S.C. § 2255, (ECF 378), as supplemented, is **DENIED** and **DISMISSED** without an evidentiary hearing;
2. No certificate of appealability will be issued;
3. The Clerk shall **CLOSE** this civil case; and
4. The Clerk shall **SEND** copies of this Memorandum and Order to David Howard and counsel of record.

3/11/2024
Date

/s/
Catherine C. Blake
United States District Judge